

## Message Text

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ORIGIN ARA-10

INFO OCT-01 ISO-00 L-03 DOTE-00 AGR-05 AID-05 CIAE-00

INR-07 NSAE-00 OES-03 EB-07 COME-00 EPA-01 HEW-02

SS-15 NSC-05 SP-02 SSO-00 NSCE-00 INRE-00 USIE-00

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DRAFTED BY ARA/ECP:WRFALKNER;BWL

APPROVED BY ARA - WHLUERS

L/ARA:GCHESTER

ARA/NC:DCOX

ARA/ECP:SHROGERS

DOT/FHWA:HLINDBERG (PHONE)

USDA/APHIS:DR. HEJL

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FM SECSTATE WASHDC

TO AMEMBASSY PANAMA IMMEDIATE

AMEMBASSY BOGOTA IMMEDIATE

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E.O. 11652: N/A

TAGS: ETRN, CO

SUBJECT: DARIEN GAP HIGHWAY INJUNCTION

REFS: A) STATE 296832 B) STATE 302653 C) BOGOTA 12073

FOR PANAMA: PLEASE PASS TO JOHN SENGER, DOT/FHWA REGIONAL  
ENGINEER

FOR BOGOTA: FOR THE AMBASSADOR FROM LUERS

1. SUMMARY: THE US DISTRICT COURT'S REFUSAL TO PERMIT

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ANY US ASSISTANCE FOR WORK ON THE DARIEN GAP HIGHWAY IN

COLOMBIA, COMING ON THE HEELS OF THE CONSULTATIVE GROUP MEETING IN MID-DECEMBER AND USG EFFORTS TO OBTAIN AN OUT OF COURT SETTLEMENT MAY PROVOKE AN ADVERSE GOC REACTION AND COULD INDIRECTLY LEAD TO DIMINISHED INITIATIVE IN PUSHING THE AFTOSA PROGRAM OVER THE NEXT FEW MONTHS. IN CONJUNCTION WITH JOHN SENGER, THE EMBASSY IS REQUESTED TO INFORM THE GOC OF THE COURT'S DECISION AND TO PROVIDE AN UPDATE ON OTHER DEVELOPMENTS.

2. THE BAD NEWS. THE DISTRICT COURT'S DECISION EFFECTIVELY STOPS ALL US ASSISTANCE TO ONGOING EFFORTS IN COLOMBIA (PROJECTS 2A AND 4A) AS WELL AS PROHIBITING

ANYTHING IN FURTHERANCE OF CONSTRUCTION, INCLUDING REQUESTING BUDGET APPROPRIATIONS AND AUTHORIZATIONS FROM CONGRESS UNTIL AN ENVIRONMENTAL IMPACT STATEMENT IS FINISHED. DOT IS CONSIDERING APPEALING THE COURT'S DECISION CONCERNING PROJECTS 2A AND 4A ONLY, BUT THE OUTLOOK IS CONSIDERED UNFAVORABLE.

3. IT DID NOT PROVE POSSIBLE TO CONCLUDE AN OUT OF COURT SETTLEMENT OF THE CASE ON THE TERMS REPORTED IN REFTTEL A. THE PLAINTIFFS SUBSEQUENTLY REQUESTED THE COURT TO PARTIALLY LIFT THE INJUNCTIONS IN PANAMA ONLY.

4. WE EXPECT THE COLOMBIANS WILL BE DISAPPOINTED BY THE COURT ACTION, ESPECIALLY REGARDING THE TWO CURRENT PROJECTS. THE BEST WHICH MAY BE HOPED FOR IS THAT THE COLOMBIANS WILL FINANCE ALL THE WORK ON PROJECTS 2A AND 4A UNTIL THE INJUNCTION IS LIFTED AND THEN RECEIVE REIMBURSEMENT FROM DOT. THIS ASPECT OF THE INJUNCTION WAS DISCUSSED AT LENGTH BY DOT AND PUBLIC WORKS MINISTRY OFFICIALS IN DECEMBER, BUT NEEDS TO BE EXAMINED FURTHER.

5. INsofar AS REGARDS THE LARGER ISSUE OF CONSTRUCTION, IT IS NOT CLEAR FROM THE RECORDS NOR THE RECOLLECTION OF THE WASHINGTON PARTICIPANTS IN THE VARIOUS BOGOTA MEETINGS THAT THE COLOMBIANS COMPLETELY UNDERSTAND THE "TWO PERIL" NATURE OF THE PROCEDURE LEADING TO INITIATION OF ADVERTISING FOR CONSTRUCTION BIDS. THE OBSTACLES ARE LIMITED OFFICIAL USE

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(1) USDA ACCEPTING THE AFTOSA PROGRAM AS ADEQUATELY IMPLEMENTED TO CONTROL THE DISEASE (PERHAPS BY MARCH), AND (2) LIFTING OF THE INJUNCTION. THE INJUNCTION'S SHORT AND LONGTERM EFFECTS WERE DISCUSSED DEC. 10 IN THE DOT-MOP MEETING AND IN THE PLENARY SESSION OF THE CONSULTATIVE GROUP. THE MINUTE OF THE CONSULTATIVE GROUP NOTES THE IMPORTANCE ATTACHED TO REVIEWING THE POSSIBILITY OF HIGHWAY CONSTRUCTION IN CONJUNCTION WITH THE MARCH

REVIEW OF THE AFTOSA PROGRAM BY AGRICULTURAL EXPERTS. WITH THE COURT'S INJUNCTION IN EFFECT UNTIL EARLY OR MID-SUMMER, A FINDING FAVORABLE TO HIGHWAY CONSTRUCTION BY THE AGRICULTURE EXPERTS WILL BE INSUFFICIENT TO PERMIT ADVERTISING TO PROCEED. PLEASE ENSURE THAT THE GOC UNDERSTANDS THE SEQUENTIAL NATURE OF THE AFTOSA AND INJUNCTION PROBLEMS.

6. THE GOOD NEWS. DOT ALREADY HAS BEGUN DISCUSSIONS WITH THE BATELLE INSTITUTE (AUTHOR OF THE IMPACT ASSESSMENT) TO REVAMP AND COMPLETE THOSE PORTIONS OF THE PREVIOUS ENVIRONMENTAL STUDY FOUND INADEQUATE BY THE COURT. CONSIDERABLE EFFORT WILL BE MADE TO DEVELOP AND PROCESS AN EIS BY JUNE THAT WOULD PERMIT CONSTRUCTION TO BEGIN.

WE ARE HOPEFUL THAT AT THE CONSULTATIVE GROUP MEETING IN JULY THIS AND THE AFTOSA PROBLEMS WILL BE SOLVED. IF THEY HAVE, DOT MAY STILL BE ABLE TO ARRANGE FOR WORK TO BEGIN IN CY 1976 ON THE RIO LEON-LOMAS AISLADAS SECTION.

7. WE HOPE TO FORESTALL ANY DIMINUTION OF EFFORT IN THE AFTOSA CONTROL PROGRAM IN THE COMING MONTHS AND DO NOT WANT TO LOSE ANY OF THE IMPETUS GAINED AT THE SRG/CG MEETINGS. USDA HAS AFFIRMED THAT IT WILL MAINTAIN THE FASTEST POSSIBLE PACE ON ITS SIDE AND WILL ENCOURAGE THE COLOMBIANS TO PROGRESS RAPIDLY. WE CONTINUE TO HOPE THAT DISCUSSIONS AT THE MARCH MEETING OF ICA-USDA EXPERTS, OF THE JULY SRG/CG AT THE LATEST, WILL RESULT IN A CLEAR INDICATION THAT THE PROGRAM HAS REACHED ITS INITIAL OBJECTIVES.

8. JOHN SENGER IS EXPECTED TO ARRIVE IN BOGOTA JAN. 7.  
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PRIOR TO MEETING WITH THE COLOMBIANS, HE WILL REQUEST A MEETING WITH YOU TO COVER RECENT EVENTS AND TO WORK OUT A STRATEGY ON INFORMING THE COLOMBIANS OF THE COURT'S DECISION WHICH WILL SEEK TO MINIMIZE THEIR DISAPPOINTMENT. HE WILL INVESTIGATE WHAT, IF ANY, PROGRESS THE GOC CAN MAKE ON ITS OWN DURING THE INJUNCTION. I THINK YOU SHOULD CONSIDER CALLING ON THE MINISTER OF PUBLIC WORKS SEPARATELY, OR WITH SENGER, TO DISCUSS THE ISSUE. IF YOU PRESENT AN AIDE MEMOIRE, YOU MAY WANT TO ATTACH A COPY OF THE COURT ORDER, WHICH SENGER IS BRINGING WITH HIM.

9. PLEASE ADVISE US OF THE APPOINTMENT DATE FOR INFORMING THE GOC OF THE COURT'S DECISION SO THAT APPROXIMATELY SIMULTANEOUSLY FRANK DEVINE CAN BRIEF AMB. TURBAY. KISSINGER

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** CONSTRUCTION, LITIGATION, PAN AMERICAN HIGHWAY  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 07 JAN 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** morefirh  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976STATE003206  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** WRFALKNER;BWL  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Film Number:** D760004-0685  
**From:** STATE  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1976/newtext/t19760179/aaaacsek.tel  
**Line Count:** 169  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ORIGIN ARA  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 4  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 75 STATE 296832, 75 STATE 302653, 75 BOGOTA 12073  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** morefirh  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 14 JUL 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <14 JUL 2004 by MartinML>; APPROVED <14 JUL 2004 by morefirh>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** DARIEN GAP HIGHWAY INJUNCTION  
**TAGS:** ETRN, ELTN, CO, PN, US  
**To:** PANAMA BOGOTA  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006